

### **REMARKS**

Claims 1-36 and 56-62 are pending in the subject application with entry of this paper.

The Applicant acknowledges the indicated allowability of claims 1-36 and 56-61.

Claims 37-50 and 51-55 were cancelled in response to previous Office Actions.

Claim 62 stands rejected.

In paragraph 2 spanning pages 2 through 3 of the Office Action, the Examiner requests a copy of several listed documents for examination. While the listed documents, identified in an Information Disclosure Statement filed with the Office on February 8, 2006, provide background information as to the general nature of the art, Applicant provides a courtesy copy of the relevant portions thereof for the Examiner's consideration as requested attached as Exhibit "A". A copy of the document authored by Martin, G.P., entitled "Polarization Based Steering Vector Determination," was unavailable after a reasonable search and will not be provided for examination thereof.

#### **Rejection of Claim 62 under 35 U.S.C. § 112**

In paragraph 3 of the Office Action, the Examiner improperly rejects claim 62 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner asserts that claim 62 is indefinite because it is read as a single means claim.

Applicant does not understand the rejection under 35 U.S.C. § 112. Claim 62 is a method claim and is written in Jepson format. Further, neither the environment of claim

62 nor the improvement over the prior art is written in means-plus-function format. While 35 U.S.C. § 112, sixth paragraph permits claims to be written in means-plus-function format, a rejection based on single means claims may only apply to claims where a means recitation does not appear in combination with another recited element of means. See MPEP § 2164.08(a) and *In re Hyatt*, 708 F.2d 712 (Fed. Cir 1983) (emphasis supplied). Claim 62 is a method claim that does not recite means and thus cannot be subject to a single means rejection under MPEP § 2164.08 or 35 U.S.C. § 112. Reconsideration and withdrawal of the rejection of claim 62 is hereby respectfully solicited.

Applicant submits that the subject application is in condition for allowance. Applicant respectfully requests that the Office issue a Notice of Allowance.

### Conclusion

Claims 1-37 and 56-61 are pending and have been identified by the Examiner as allowable. Applicant has traversed the improper rejection of claim 62 under 35 U.S.C. § 112. Thus, Applicant believes that the application is in condition for allowance and, as such, it is requested that claims 1-37 and 56-62 be allowed to issue in a U.S. Patent.

If the Examiner believes that an in-person or telephonic interview with the Applicant's representatives will expedite the prosecution of the subject patent application, the Examiner is invited to contact the undersigned agents of record.

Should any additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of the same, such a petition is made and the Office is authorized to charge such fees to Deposit Account No. 04-1679.

Respectfully submitted,



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